

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Isabel Cifarelli	Team: Squad #13	CCRB Case #: 202000130	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 12/27/2019 11:10 PM	Location of Incident: § 87(2)(b)	Precinct: 41	18 Mo. SOL 6/27/2021	EO SOL 2/11/2022	
Date/Time CV Reported Fri, 12/27/2019 11:23 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/07/2020 12:52 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Coral Pena	22322	962672	041 PCT
2. PO Christian Sanchez	09107	962084	041 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Romeo Poliard	17518	962021	041 PCT
2. POF Osmairys Avila	26631	966949	041 PCT
3. POF Cynthia Lopez	07046	963616	041 PCT
4. POM Stephen Bonczyk	11029	964396	041 PCT
5. SGT Ioannis Hatjopoulos	03192	953954	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Coral Pena	Abuse: Police Officer Coral Pena forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(g), § 87(4-b)
B. PO Christian Sanchez	Abuse: Police Officer Christian Sanchez forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(g), § 87(4-b)
C. PO Coral Pena	Force: Police Officer Coral Pena used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
D. PO Christian Sanchez	Force: Police Officer Christian Sanchez used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
E. PO Coral Pena	Force: Police Officer Coral Pena used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
F. PO Coral Pena	Force: Police Officer Coral Pena restricted § 87(2)(b)'s breathing.	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(g), § 87(4-b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

Case Summary

On December 27, 2019, § 87(2)(b) called 911 and was transferred to IAB, where she filed this complaint. It was received by the CCRB on January 7, 2020.

On December 27, 2019, at approximately 11:10p.m., § 87(2)(b) and her daughter, § 87(2)(b) were at § 87(2)(b) in the Bronx. A staff member at the shelter called 911 regarding § 87(2)(b)'s behavior. PO Coral Pena and PO Christian Sanchez, both of the 41st Precinct, responded to the location and decided to forcibly remove § 87(2)(b) to § 87(2)(b) (**Allegations A and B: Abuse of Authority**, § 87(2)(g) PO Pena and PO Sanchez grabbed § 87(2)(b) by the arms and allegedly slammed her into the floor (**Allegations C and D: Force**, § 87(2)(g) While handcuffing § 87(2)(b) PO Pena allegedly placed her knee on § 87(2)(b)'s back, restricting her breathing (**Allegations E and F: Force**, § 87(2)(g) No arrest or summons resulted from this incident.

§ 87(4-b), § 87(2)(g)

The investigation received three body-worn camera ("BWC") videos related to this incident, recorded by PO Pena, PO Sanchez, PO Cynthia Lopez, and PO Stephen Bonczyk, both of the 41st Precinct. The videos are in IAs # 67, 240, and 68-69 (BR 01-04) and summarized in IAs # 84, 244, and 85-86 (BR 05-08).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Coral Pena forcibly removed § 87(2)(b) to the hospital.

Allegation (B) Abuse of Authority: Police Officer Christian Sanchez forcibly removed § 87(2)(b) to the hospital.

In PO Sanchez's BWC footage, from the 00:59 to 01:42 minute marks of the media player timestamp (visible at the bottom of the screen), PO Sanchez and PO Pena walk into § 87(2)(b) and approach the front desk (BR 02). PO Pena states, "You said somebody is trying to stab themselves?" A staff member, who is not visible, states, "All right, so ..." She then becomes inaudible. PO Sanchez states, "So there's two people?" A woman's voice is audible in the background yelling, but it is not clear what she is saying. The staff member states, "Yeah, there's two. Come over here, you have gloves?" The officers approach § 87(2)(b) and place her in handcuffs (see below section). From 05:15 to 05:38, PO Sanchez asks a member of staff, "She was hearing voices?" The staff member replies, "She was stabbing herself with a plastic fork" and that she might have cuts on her arm. PO Sanchez asks if § 87(2)(b) was trying to stab herself. The staff member states that § 87(2)(b) had said someone else was attacking her, but that she was doing it to herself. PO Sanchez asks if she has any cuts, and the individual states that they will need to check her for cuts.

In PO Pena's BWC footage, from the 02:10 to 07:45 minute marks of the media player timestamp (visible at the bottom of the screen), § 87(2)(b) is visible walking out of the shelter with PO Pena and PO Sanchez (BR 01). § 87(2)(b) asks where she is going, and PO Pena states that they are taking her to the hospital. § 87(2)(b) states that she does not need to go to the hospital and that she was not disturbing anyone. PO Pena tells § 87(2)(b) several times to get into the police vehicle, and § 87(2)(b) ultimately does so.

§ 87(2)(b) was not cooperative with the investigation (BR 27).

§ 87(2)(b) testified that she did not know who called 911 regarding § 87(2)(b) and that she did not know why they had called (BR 09). § 87(2)(b) had not been in a bad mood and was not causing any trouble.

The officers transported § 87(2)(b) to § 87(2)(b) in a police car. An ambulance never responded. § 87(2)(b) was discharged the next day.

Event #§ 87(2)(b) showed that the 911 call came over as a “54 E1 – Ambulance Case: EDP/Inside” at § 87(2)(b) (BR 11). The Event indicated that there was a nonviolent suicidal female trying to stab herself. However, the Event also stated that the female did not have any weapons. An ambulance was dispatched by the 911 operator.

The New York City Department of Homeless Services (DHS) prepared an incident report regarding this incident which stated that shelter staff contacted EMS because § 87(2)(b) was trying to stab herself with a fork (BR 10).

§ 87(2)(b) the § 87(2)(b) who was listed on the DHS incident report as a witness, did he not recall this incident and explained that EMS is contacted regarding clients with medical issues two to three times every day (BR 12).

PO Pena testified that when she arrived at § 87(2)(b), she spoke with shelter staff members at a desk near the entrance (BR 13). She did not recall which staff members she spoke to, nor how many. The staff provided the following information: there was a suicidal woman with a knife who was trying to injure herself. They did not mention how the woman was trying to hurt herself. PO Pena did not recall whether shelter staff mentioned any suicidal statements made by the woman. The staff members pointed out § 87(2)(b) and identified her as the suicidal woman. Both officers attempted to verbally persuade § 87(2)(b) to come with them. PO Pena did not recall what § 87(2)(b) was doing upon first observing her, though she did not appear to have any knives or sharp objects on her person. § 87(2)(b) was yelling, though PO Pena did not recall what § 87(2)(b) said, nor how loud she was.

PO Pena determined that § 87(2)(b) was a danger to herself and others based on the 911 call, the information provided by staff members, specifically the fact that she was attempting to hurt herself with a knife, and based on § 87(2)(b)'s behavior, namely that she was yelling and did not appear to want to go to the hospital. No other behaviors contributed to this determination.

The officers handcuffed § 87(2)(b) and walked her out of the building. EMS, which was automatically dispatched when the 911 call was made, had not arrived. PO Pena did not recall how long she had been on scene at this point. PO Pena and PO Sanchez transported § 87(2)(b) to the hospital in their police vehicle because she was suicidal and required treatment. PO Pena did not contact her supervisor regarding this incident at any point.

§ 87(2)(g) PO Sanchez did not recall what § 87(2)(b) was doing when the officers arrived, but she did not appear to be hurting herself or trying to hurt herself at this point. She was not doing anything that was potentially dangerous to other people, though she was considered a danger to herself based on her mental history, which was relayed to PO Sanchez by the staff, and the apparent presence of a knife. PO Sanchez did not recall what information about § 87(2)(b)'s mental history was relayed to him by shelter staff. PO Sanchez did not recall if § 87(2)(b) had a knife when he approached her, and he did not recall her demeanor.

Once § 87(2)(b) was handcuffed, PO Sanchez requested an ETA for EMS's arrival, and he did not receive a response from dispatch. Once they exited the building, PO Sanchez requested an ETA again, and he was told that there was “no ETA.” PO Sanchez did not know whether EMS would arrive. PO Sanchez did not contact a supervisor regarding this incident because he and PO Pena had just left another call where officers had requested additional units, and PO Sanchez believed his supervisor was still busy with that call. The officers took § 87(2)(b) directly to the hospital rather than waiting for EMS to arrive because she had allegedly been harming herself with a knife.

PO Pena testified that she prepared an AIDED report. However, the investigation requested copies of this report from IAB and received negative results (BR 15) § 87(2)(g), § 87(4-b).

When a uniformed member of service reasonably believes that a person who is apparently mentally ill or emotionally disturbed must be taken into protective custody because the person is

conducting himself in a manner likely to result in serious injury to himself or others, members of service must request an ambulance, attempt to isolate and contain the EDP while maintaining a zone of safety, and have the EDP removed to the hospital in an ambulance. Officers are required to request or ensure the response of a patrol supervisor and may transport the EDP to the hospital in a police vehicle at the direction of a supervisor, per NYPD Patrol Guide Procedure 221-13 (BR 16).

§ 87(2)(g)

Allegation (C) Force: Police Officer Coral Pena used physical force against § 87(2)(b)

Allegation (D) Force: Police Officer Christian Sanchez used physical force against § 87(2)(b)

Allegation (E) Force: Police Officer Coral Pena used physical force against § 87(2)(b)

Allegation (F) Force: Police Officer Coral Pena restricted § 87(2)(b)'s breathing.

In PO Sanchez's BWC footage, from the 01:29 to 02:28 minute marks of the media player timestamp (visible at the bottom of the screen), PO Sanchez and PO Pena approach § 87(2)(b) who appears to be yelling (BR 02). PO Pena states, "It's alright," while PO Sanchez states, "Come over here, mama. Come here." As PO Sanchez states, "Come over here" again, he reaches with his left hand and grabs § 87(2)(b)'s left arm. Her arm moves toward PO Sanchez, and she states, "Don't drag me," while PO Sanchez continues pulling on her arm and stating, "Come over here." She is standing behind § 87(2)(b). PO Pena grab § 87(2)(b)'s right arm with her right hand and guides her away from § 87(2)(b). The officers turn § 87(2)(b) around. § 87(2)(b) states repeatedly that she is calm. § 87(2)(b) states, "Don't do this."

PO Sanchez's BWC is partially obscured by his jacket while he appears to place handcuffs on § 87(2)(b). Her body positioning is not clear. From the 01:55 to 02:01 marks, § 87(2)(b) appears to be standing against a wall. The sound of handcuffs clicking is audible, and PO Sanchez tells § 87(2)(b) to relax as the screen goes dark. Between the 02:02 and 02:20 marks, the scene is not clearly visible, but the sounds of shuffling, grunting, and heavy breathing are audible, indicating a struggle.

At 02:28, PO Sanchez tells § 87(2)(b) to put her hands behind her back, and at 02:49, the sound of handcuffs clicking is audible again. There are no sounds indicative of a struggle between 02:49 and 02:56. At 02:56, the scene becomes visible again. § 87(2)(b) is on the floor handcuffed, and PO Sanchez tells her to get up. The camera becomes obscured again at 03:12, but § 87(2)(b) is still on the floor at 04:40, when PO Pena and PO Sanchez lift her up.

In PO Pena's BWC footage, from the 00:30 to 02:10 minute marks of the media player timestamp (visible at the bottom of the screen), § 87(2)(b) is visible already on the floor (BR 01). Her positioning is unclear because the video is very dark, but her hands are behind her back. The officers order her to get up and calm down. § 87(2)(b) yells for a "young lady" to help her and get the officers to leave. § 87(2)(b) states that she cannot get up. At 02:10, the officers lift her up by her arms and guide her out of the shelter. The BWC videos recorded by PO Lopez and PO Bonczyk both begin once § 87(2)(b) has already been taken outside (BR 03-04).

§ 87(2)(b) § 87(2)(g) testified that when the officers arrived, they asked § 87(2)(b) for her name, which she provided. § 87(2)(b) was uncomfortable with the officers questioning her and became mad. § 87(2)(b) told § 87(2)(b) not to let her go with the officers. The two officers grabbed § 87(2)(b)'s arms aggressively and told her that she had to come with them. The officers twisted § 87(2)(b)'s arms behind her back and placed her into handcuffs. § 87(2)(b) responded aggressively because she did not know what was going on. § 87(2)(b) tried to escape from the officers by moving her body. After several minutes of trying to control her, the officers slammed § 87(2)(b) onto the floor, while she was in handcuffs. While § 87(2)(b) was on the floor, PO Pena placed her knee on § 87(2)(b)'s back, and § 87(2)(b) stated that she could not breathe.

§ 87(2)(b) testified that he did not recall this incident.

PO Pena testified that upon arriving to the location, she and PO Sanchez attempted to verbally persuade § 87(2)(b) to come with them. After asking several times over the course of approximately one minute, PO Pena and PO Sanchez each grabbed one of § 87(2)(b)'s hands, at which point § 87(2)(b) began to flail her arms and pull away from the officers. § 87(2)(b) yelled that she did not want to go. § 87(2)(b) was not doing anything else physically besides pulling away. PO Pena did not recall whether she was able to maintain contact with § 87(2)(b) or if she succeeded in pulling away. After physically interacting with § 87(2)(b) for several minutes, the officers guided § 87(2)(b) to the floor by pulling on her arms, a motion that was slightly controlled. This was done in order to gain control of the situation. PO Pena did not recall how § 87(2)(b) landed on the floor, nor which part of § 87(2)(b)'s body made contact with the floor first. She did not believe that any part of § 87(2)(b)'s body slammed into the floor. PO Pena did not recall whether § 87(2)(b) was handcuffed before or after being guided to the floor.

§ 87(2)(b) continued to flail and pull away upon being guided to the floor, and PO Pena and PO Sanchez continued to hold her arms in order to maintain control. PO Pena and PO Sanchez were both on the floor with § 87(2)(b). PO Pena did not recall whether any part of her body or PO Sanchez's body was ever placed on top of § 87(2)(b). PO Pena did not recall whether she or PO Sanchez ever placed a knee on § 87(2)(b)'s back. PO Pena was unaware of anything that would have restricted § 87(2)(b)'s breathing. PO Pena and PO Sanchez picked § 87(2)(b) up by her arm and walked her out of the building.

PO Sanchez § 87(2)(g) believed § 87(2)(b) was handcuffed due to her mental state, and because the officers had been told she had a knife. He did not recall what caused § 87(2)(b) to land on the floor, but it was not his intention to take her to the floor and he did not recall whether she was moving her body before or after being placed on the floor. PO Sanchez did not recall whether PO Pena placed her weight on § 87(2)(b)'s back or if she did anything to restrict § 87(2)(b)'s breathing.

PO Pena testified that she prepared a TRI report. However, the investigation requested a copy of this report from IAB and received negative results (BR 17-18) § 87(4-b), § 87(2)(g).

In cases involving an emotionally disturbed person (EDP) who is deemed dangerous to himself or others, restraining equipment such as handcuffs may be used if the EDP is violent or resists, per NYPD Patrol Guide Procedure 221-13. Force may be used against an EDP when it is reasonable to prevent serious physical injury or death. Officers must use only the reasonable force necessary to gain control or custody of a subject.

§ 87(2)(g)

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§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 22).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 23).
- PO Pena has been a member of service for five years and has been a subject in one additional CCRB complaint and six additional allegations, none of which were substantiated. § 87(2)(g)

- PO Sanchez has been a member of service for five years and has been a subject in one additional CCRB complaint and four additional allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) and § 87(2)(b) rejected mediation.
- As of November 4, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (BR 24).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 13

Investigator:	<u>Isabel Cifarelli</u>	<u>Inv. Isabel Cifarelli</u>	<u>11/17/21</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Laura Kastner</u>	<u>IM Laura Kastner</u>	<u>11/17/2021</u>
	Signature	Print Title & Name	Date